



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LABOR BUREAU

February 26, 2021

By ECF

The Honorable Brian M. Cogan
U.S. District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Amazon.com, Inc. v. Attorney General Letitia James*, Case No. 1:21-cv-767-BMC

Dear Judge Cogan:

I write on behalf of Defendant, the Attorney General of the State of New York (the "Attorney General"), regarding the above-referenced case pursuant to Your Honor's Individual Practice Rule I.E. The Attorney General respectfully requests an extension of time to respond to the Complaint from March 5, 2021, to a date seven days following issuance of an order in *New York v. Amazon.com, Inc.*, No. 1:21-cv-1417-JSR (S.D.N.Y.) (the "SDNY Action"), on the parties' cross-motions for remand and transfer, as explained more fully below. The Attorney General will notify the Court by filing a copy of such Order within a day of its issuance. This is the Attorney General's first request for an extension. Plaintiff Amazon.com, Inc. ("Amazon") consents to the relief requested, subject to the understanding that this consent is given without waiver of Amazon's arguments that its lawsuit should proceed first.

The only other previously-scheduled dates in this matter are a telephonic Initial Status Conference scheduled for March 31 and the parties' joint letter due five days prior to the conference. In the interest of preserving judicial resources, the Attorney General suggests rescheduling the initial conference to a date after Judge Rakoff issues a decision on the remand and transfer motions, which would clarify and potentially narrow the issues in the instant action. Amazon does not join this request.

The grounds for the Attorney General's requested extension are that the arguments available to the Attorney General in a Rule 12 motion, and the Court's analysis of those arguments, will be significantly impacted by developments in the SDNY Action pending between the same parties. The instant case complains that "[the Attorney General] has threatened to sue Amazon imminently," and seeks declaratory relief concerning that "threatened" action. (Docket No. 1, ¶ 174). Indeed, the Attorney General filed suit against Amazon in New York State Supreme Court for New York County on the business day following Amazon's commencement of the instant suit.

(*New York v. Amazon.com, Inc.*, Case No. 45362/2021 (Sup. Ct., N.Y. Cty.)) (the “State Court Action”). Amazon removed, and *New York v. Amazon* is currently pending before the Honorable Jed S. Rakoff in the U.S. District Court for the Southern District of New York. Judge Rakoff approved a cross-briefing schedule for the Attorney General’s motion to remand the SDNY Action to New York State court and for Amazon’s motion to transfer the SDNY Action to the Eastern District. Under that schedule, the cross-motions will be fully submitted on March 17 and oral argument is scheduled for March 25.

The Attorney General anticipates moving to dismiss the instant case, and the availability and analysis of arguments concerning abstention doctrines and the Court’s exercise of its jurisdiction under the Declaratory Judgment Act, 28 U.S.C. § 2201(a), will differ depending on whether the Attorney General’s motion to remand the SDNY Action is granted. Accordingly, in the interests of preserving judicial resources and efficiency, the Attorney General respectfully requests that her time to respond to the Complaint in the instant case be stayed pending developments in the SDNY Action, with a new deadline of seven days after issuance of an order on the Motion to Remand and Motion to Transfer in that case.

Respectfully submitted,

Julie R. Ulmet
Counsel for Defendant